United Nations CAT/C/FRA/Q/7

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Distr.: General
6 January 2016
English
Original: French
English, French and Spanish only

Committee against Torture

List of issues in relation to the seventh periodic report of France*

Articles 1 and 4

1. Please indicate whether, in France, violence against women can constitute torture or ill-treatment within the meaning of article 1 of the Convention, as it refers, among the reasons for torture, to "any reason based on discrimination of any kind", and in the light of article 222-1 of the Criminal Code and the information provided in paragraph 34 of the State party report.[1]

2. Please provide examples, if any, of cases in which the Convention has been directly invoked or applied by the domestic courts, or cases in which the Convention has been invoked indirectly.

Article 2[2]

3. Please indicate the action taken to give effect to the recommendations made by the Inspector-General of Places of Deprivation of Liberty to the State party in the light of the findings of her visits and in particular of the Act of 26 May 2014 strengthening her mandate.[3] Please provide information on the powers of the new Defender of Rights in the areas covered by the Convention following the dissolution of the National Commission on Security Ethics. Please specify the conditions under which individual complaints of torture may be lodged with the Defender of Rights and the procedures for dealing with such complaints. Lastly, please inform the Committee of the number of individual complaints of torture received by the Defender of Rights and of their outcome.[4]

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* Adopted by the Committee at its fifty-sixth session (9 November-9 December 2015).

[1] See State party report (CAT/C/FRA/7), paras. 34 and 41.

[2] The issues raised under article 2 may also relate to other articles of the Convention, such as article 16. As indicated in paragraph 3 of general comment No. 2 (2007) on the implementation of article 2 by States parties, the obligation to prevent torture in article 2 is wide-ranging. The obligations to prevent torture and other cruel, inhuman or degrading treatment or punishment under article 16, paragraph 1, are indivisible, interdependent and interrelated. The obligation to prevent ill-treatment in practice overlaps with and is largely congruent with the obligation to prevent torture. In practice, the definitional threshold between ill-treatment and torture is often not clear. See also chapter V of the general comment.

[3] See CAT/C/FRA/7, paras. 17 to 27; see also the summary record of the last dialogue with the State party (CAT/C/SR.928), para. 40.

[4] See the concluding observations of the Committee against Torture (CAT/C/FRA/CO/4-6), para. 34; and CAT/C/FRA/7, para. 303.

4. Please indicate the measures taken to avoid excessive recourse to police custody.[5] Please also indicate the measures taken to reduce the maximum duration of police custody in cases of terrorism[6] and organized crime.[7] Please indicate whether the State party intends to amend article 706-88, paragraph 6, of the Code of Criminal Procedure in order to guarantee access to a lawyer immediately upon detention, and to abolish the derogation system provided for in cases of terrorism or organized crime.[8] Please also indicate whether it is possible to appeal a decision to extend the duration of police custody. Please inform the Committee of the measures taken to ensure that persons in police custody are systematically informed of their rights and that minors do not sign statements without the assistance of a legal representative.

5. Please provide updated statistical information on the number of people who have benefited from alternatives to pretrial detention, such as house arrest with electronic surveillance and house arrest with mobile electronic surveillance, since the adoption of the Prisons Act of 24 November 2009, and on the offences or crimes for which these people were under investigation.[9] Please indicate the measures taken by the State party to limit the duration of pretrial detention in the light of the Committee's previous concluding observations.[10]

6. Please provide updated information on the application of the legislation on the prevention and punishment of trafficking in persons, in particular the number of complaints received, the investigations conducted, the prosecutions brought, including in the overseas territories, the convictions obtained and the penalties imposed, as well as on the measures taken to rehabilitate and protect victims of trafficking, particularly minors.

Article 3

7. In the light of the Committee's previous concluding observations, please provide updated statistics disaggregated by age, sex and nationality on the number of asylum applications that the State party has received since the consideration of its last periodic report in April 2010. Please indicate the number of applications granted, including those accepted on the grounds that the applicants had been tortured or would face a risk of torture if they were sent back to their country of origin, as well as the number of return orders rescinded by the administrative court owing to a risk of torture. Please provide information on the number of applications that have been dealt with under a "priority procedure", including those that have been refused and for which a return order has been issued. Please indicate to what extent these applications have been the subject of a thorough individual risk assessment and the criteria used in such an assessment to ensure that the applicants are not subjected to torture in their country of origin. When referring to the bill on asylum reform, the State party indicates that the French Office for the Protection of Refugees and Stateless Persons will be able to introduce fast-track procedures on the basis of criteria in the application. Please specify the nature of these criteria.[11]

8. Please provide information on the provisions of the bill on asylum reform relating to the procedural safeguards that will apply to asylum seekers in waiting

[5] See the concluding observations of the Committee on Enforced Disappearances (CED/C/FRA/CO/1), para. 30.
[6] See the concluding observations of the Human Rights Committee (CCPR/C/FRA/CO/7), para. 9.
[7] See CAT/C/FRA/7, paras. 169 and 170.
[8] See CAT/C/FRA/CO/4-6, para. 22.
[9] See CAT/C/FRA/CO/4-6, para. 22; and CAT/C/FRA/7, paras. 173 to 177.
[10] See CAT/C/FRA/CO/4-6, para. 22.
[11] See CAT/C/FRA/CO/4-6, para. 14; and CAT/C/FRA/7, paras. 46 to 51.

areas. Please indicate whether the new provisions extend the deadline for filing appeals against an initial refusal of an application by the French Office for the Protection of Refugees and Stateless Persons in order to increase the effectiveness of the appeals process, whether the person may be assisted by a lawyer immediately upon entering a waiting zone and throughout the process and, if so, whether the person is informed of his or her rights at that time.[12]

9. In the light of the Committee's previous concluding observations, please indicate to what extent the bill on asylum reform extends the period of five days currently provided for in Article L. 551-3 of the Code on the Entry and Residence of Aliens and the Right of Asylum during which an asylum seeker being held in a detention centre may lodge an appeal with the National Court on the Right of Asylum following the refusal of his or her application by the French Office for the Protection of Refugees and Stateless Persons. Please indicate whether such an appeal would have a suspensive effect. Please provide information on the number of asylum seekers who submitted their application in a detention centre, of applications that were granted and of those refused, and of removal orders enforced after such a refusal. Please provide information on the provisions of the asylum reform bill relating to the improvement of the modalities for drawing up and reassessing the list of "safe" asylum countries.

Articles 5 to 9

10. Please provide information on the measures taken to harmonize the conditions for prosecuting individuals for torture set out in articles 689-1 and 689-2 with those set out in article 689-11 of the Code of Criminal Procedure, which make it difficult to prosecute cases of torture as an international crime. In this connection, please also provide information on the deadline for the consideration and adoption by the National Assembly of the bill to amend article 689-11 of the Code of Criminal Procedure on the territorial jurisdiction of French courts over the crimes referred to in the Rome Statute of the International Criminal Court (the "Sueur Bill"), which was approved by the Senate in 2013 in order to make it possible to prosecute a person suspected of having committed an international crime on the basis of just the fact of his or her presence in French territory. Similarly, please indicate whether the State party intends to remove the four legal conditions set out in article 689-11 of the Code of Criminal Procedure to allow the exercise of universal jurisdiction over the international crimes, including torture, referred to in the Rome Statute.[13]

11. Please provide information on the regime for granting and applying immunity to public officials of another State who are present in French territory when they are suspected of having committed acts of torture. Please explain how the State party reconciles granting and applying such immunities with the provisions of articles 5 and 6 of the Convention on the exercise of universal jurisdiction. Please provide information on the impact of the application by the State party of the provisions of article 5 of the Convention, the fight against impunity for acts of torture and the bill authorizing the adoption of the Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters between the Government of France and the Government of Morocco, which would give Morocco primacy of jurisdiction over crimes committed on its territory by a Moroccan national even if the victim is French.

12. Please indicate whether, since the consideration of the previous report, the State party has refused any request for extradition by another State of an individual suspected of having committed acts of torture and brought its own prosecution as a result. If so, please provide information on the handling and outcome of the

[12] See CAT/C/FRA/CO/4-6, para. 15; and CAT/C/FRA/7, paras. 61 to 80.
[13] See CAT/C/FRA/CO/4-6, para. 19.

proceedings. Please also indicate whether the State party, under article 5 of the Convention, has had cause to extradite persons suspected of having committed acts of torture. Please indicate which countries made these requests for extradition and the number of persons concerned. Please indicate whether the State party has concluded extradition treaties and, if so, whether acts of torture have been included as a ground for extradition therein.

Article 10

13. In the light of the Committee's previous concluding observations and the information provided in the State party's report, please indicate the additional measures taken to ensure that security agents, peacekeepers, non-commissioned and commissioned officers of the gendarmerie and civilian and medical personnel who may be involved in supervising, questioning or handling individuals subjected to any form of arrest, detention or imprisonment receive adequate training on the provisions of the Convention, including the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol). Please also provide information on the methods used by the State party to assess the effectiveness of this training and the results obtained. Please indicate whether the law of 14 March 2011 establishing the National Council for Private Security Activities and the decree of 10 July 2012 promulgating a code of ethics for such activities provide for training on human rights issues, including on the provisions of the Convention. [14] If so, please provide information on the nature, frequency, effectiveness and assessment of the training provided.

Article 11

14. Please provide additional information on the measures taken to reduce the extremely high level of prison overcrowding in both mainland France and the overseas territories, [15] particularly Mayotte. Please provide updated information, including disaggregated data, on the use of non-custodial sentences and on the measures taken to make their use more widespread in accordance with the Prisons Act of 2009. [16]

15. In the light of the Committee's previous concluding observations, please specify the measures taken to improve material living conditions in waiting areas, including ad hoc waiting areas, particularly in the overseas territories, and to ensure that minors are held separately from adults as a matter of course. In this connection, please provide information on the measures taken to give effect to the recommendations of the Inspector-General of Places of Deprivation of Liberty. [17]

16. Please indicate whether the State party has taken or intends to take additional measures to combat violence in detention, particularly among detainees, and to guarantee the victims of such violence the possibility of lodging a complaint. [18] In the light of the Committee's previous concluding observations, please provide information on the implementation of the 2009 national action plan for the prevention of suicide in

[14] See CAT/C/FRA/CO/4-6, para. 20; and CAT/C/FRA/7, paras. 118 to 142.

[15] See CAT/C/FRA/CO/4-6, para. 24; the State party's follow-up replies to the Committee's concluding observations (CAT/C/FRA/CO/4-6/Add.1), paras. 46 to 50; CAT/C/FRA/7, paras. 186 to 197; CCPR/C/FRA/CO/5, para. 17; and Universal Periodic Review, report of the Working Group (A/HRC/23/3), p. 24.

[16] See CAT/C/FRA/CO/4-6, para. 24; CAT/C/FRA/CO/4-6/Add.1, paras. 57 to 100; and CAT/C/FRA/7, paras. 198 to 203.

[17] See CAT/C/FRA/CO/4-6, para. 25; and CAT/C/FRA/7, paras. 212 to 231.

[18] See CAT/C/FRA/CO/4-6, para. 24.

detention. Please also provide up-to-date statistical data on the number of detainees in solitary confinement and the number of deaths by suicide that have occurred since the consideration of the previous report.[19]

Articles 12 and 13

17. Please provide detailed statistical data, disaggregated by offence, age, ethnic origin and sex, on complaints lodged concerning acts of torture and other cruel, inhuman or degrading treatment or punishment allegedly committed by law enforcement officers, as well as on any related investigations, prosecutions and criminal or disciplinary sanctions, where relevant. Please specify what mechanisms have been established to make it easier to lodge complaints of ill-treatment at the hands of law enforcement and security officers and to protect the complainants against possible reprisals. Please provide information on the measures taken to make it easier for detainees to lodge complaints of ill-treatment in prisons and the procedure followed in such cases. Please also provide detailed statistics on this subject.[20]

18. Please provide information on the measures taken to conduct prompt, independent and impartial investigations into persistent allegations of ill-treatment, excessive use of force, harassment and the disproportionate use of less lethal weapons in the following situations: (a) arrests; (b) forced evacuations; (c) operations to maintain law and order; (d) demonstrations; and (e) operations involving airlifting of persons from administrative detention centres or waiting areas by air. Please indicate the steps taken by the investigative authorities, particularly the Inspector-General of Places of Deprivation of Liberty and the State prosecutor for Boulogne-Sur-Mer, to investigate the allegations of excessive use of force and verbal abuse against migrants and asylum seekers in the city of Calais dating from May 2015.[21]

Article 14

19. In the light of the Committee's general comment No. 3 (2012) on the implementation of article 14 by States parties, please provide information on the measures taken by the State party in terms of judicial and non-judicial mechanisms and procedures for providing reparation (particularly in the form of financial compensation), protection and rehabilitative care for victims of torture and ill-treatment, as well as for witnesses, dependants and any other person who has intervened on the victim's behalf. In this connection, please provide detailed information on the number of requests received for reparation for such acts, the number of persons who have benefited from reparation or rehabilitation measures, the nature of the reparation in question, the person's age and sex and the offence concerned. Please also indicate which authority ordered such measures.

Article 15

20. Please provide examples of cases, if any, in which confessions obtained under torture have not been accepted as evidence by the courts.

[19] See CAT/C/FRA/CO/4-6, para. 26.
[20] See CAT/C/FRA/CO/4-6, para. 31.
[21] See CAT/C/FRA/CO/4-6, para. 16.

Article 16

21. In its previous concluding observations, the Committee expressed serious concern about the secure detention (*rétention de sûreté*) system introduced by Act No. 2008-174 of 25 February 2008 and urged the State party to consider repealing it. Moreover, the 2010 law on the risk of criminal recidivism has led to an increase in the use of secure surveillance. In this connection, and in view of the response provided in paragraphs 275 to 277 of the State party report, please report on the progress report made by the committee set up in 2014 to review criminal penalties and indicate whether the secure detention system has been abolished.[22]

22. In the light of the Committee's previous concluding observations, please report on the progress made in installing electronic detection devices in all penitentiary facilities in the State party. Please provide information on the steps taken to give effect to the administrative communication on means of oversight of 15 November 2013 relating to body searches. Please also provide up-to-date statistics on the number of detainees who have been subjected to searches of this kind.[23]

23. In the light of paragraph 39 of the Committee's previous concluding observations and the replies provided by the State party in its report, please provide information on the allegations of sexual abuse of children by French soldiers during Operation Sangaris in the Central African Republic, the investigations conducted into these allegations and their outcome.[24]

24. Please provide information on the measures taken by the State party to ensure that: (a) persons involuntarily committed to psychiatric hospitals or units attached to them are protected against all forms of violence; (b) their consent or that of their guardian or curator must be obtained in order for certain types of treatment to be administered; (c) recourse to solitary confinement and the use of mechanical means of restraint are systematically monitored.

Other matters

25. In the light of the Committee's previous concluding observations, please indicate the legal status, within the domestic legal order, of the temporary measures and the decisions adopted by the Committee on individual communications and indicate what procedural guarantees have been put in place to give effect to such temporary measures and to the Committee's decisions under article 22 of the Convention.[25]

26. Please provide updated information on the measures taken by France to respond to terrorism threats. Please indicate whether these antiterrorism measures have had an impact on fundamental human rights safeguards in law and in practice and, if so, to what extent. Please indicate how the State party ensures that these measures are compatible with all its obligations under international law, in particular those that it has incurred under the Convention against Torture, in accordance with the provisions of Security Council resolutions and, in particular, resolution 1624 (2005). Please describe the content of the training provided to law enforcement officers and indicate the number and nature of the convictions obtained pursuant to antiterrorism

[22] See CAT/C/FRA/CO/4-6, para. 29; CAT/C/FRA/7, paras. 275 to 277; and CCPR/C/FRA/CO/5, para. 11.
[23] See CAT/C/FRA/CO/4-6, para. 28; and CAT/C/FRA/7, paras. 261 to 273.
[24] See CAT/C/FRA/CO/4-6, para. 39; CAT/C/FRA/7, paras. 323 to 328; and CCPR/C/FRA/CO/5, para. 16.
[25] See CAT/C/FRA/CO/4-6, para. 35; and CAT/C/FRA/7, para. 308.

legislation, as well as the legal remedies available to persons subject to antiterrorism measures. Please also indicate whether any complaints have been lodged for non-observance of the relevant international rules and, if so, their outcome.